

CITY OF YACHATS
CITY COUNCIL MEETING
Civic Meeting Room, Yachats Commons
October 14, 2010
Regular Meeting 2:00 P.M.
Minutes

The regular meeting of the City Council was called to order by Mayor Ronald Brean at 2:00 p.m. in the Civic Meeting Room at the Yachats Commons. Council members present: Larry Nixon, Greg Scott, David Rieseck and Sandy Dunn. Staff present: City Attorney, Mike Dowsett, Director of Public Works, John McClintock and City Recorder, Nancy Batchelder. Audience: 18.

I. Announcements and Correspondence

- Movie Night will be next Thursday.
- A Flu Clinic has been scheduled for October 27 at the Presbyterian Church.
- There will be a Candidate Forum Sunday in the Commons from 3:00 p.m. to 5:00 p.m.

Correspondence

- Yachats Demonstration and Community Garden – request for ditch work
- Yves Nakahama – Code Violation: Chickens
- Ken Gagne – Transient Rental Code Amendment

II. Citizen's Concerns

Janna Loigman said that she is a homeowner in the area of the Aqua Vista Square project and she is trying to understand why homeowners are required to have a certain amount of parking while it seems that in Yachats commercial zones have a lower standard. She believes that commercial zones should be held to a higher standard. Parking and traffic are a concern for many of the neighbors in that neighborhood and she believes that the Aqua Vista Square project should be required to have adequate parking.

III. Consent Agenda

- A. Minutes of September 7, 2010 Work Session, September 9, 2010 Regular Meeting, September 27, 2010 Special Meeting and Executive Session**
- B. Bills for Approval**
- C. Resolutions from September**
 - 2010-09-01 – Adopt Updated Job Descriptions and Evaluation Forms**
 - 2010-09-02 – GoYachats Author Account for Discover the Northwest**
- D. OLCC License: Fireside Motel**

Motion to adopt the consent agenda, Aye – 5, No – 0.

1 **IV. Reports**

2 **A. Guests - Steve Major from Dyer Engineering**

3
4 Brean explained that the City Council had asked Majors to explain why the bids on the East
5 Hillside LID project were so different from the engineering estimates.

6
7 Majors shared a copy of a bid sheet that was just opened for a project in the City of Coquille and
8 explained that each contractor looks at each project differently and it is normal for actual bids to
9 vary from the engineering estimates, particularly when looking at the individual line items.

10
11 Majors said that they spent days on-site to try to determine what was built and what work would
12 be required to complete the projects, but they do not have control over what the contractors will
13 bid. In addition, other things became known after the estimates were calculated. For example,
14 Central Lincoln PUD altered their plans for the electrical service they would provide. They had
15 indicated that three-phase service would be run to the pump stations, and have since changed
16 their minds. Contractors included some work in one schedule rather than another either because
17 they were unsure as to what part of the overall project should be in each schedule or because
18 they thought it was easier that way. The contractors may not have had all the information they
19 needed. In fact, one contractor said that they could have lowered their bid if they had asked more
20 questions.

21
22 Scott said that given the economic climate the City had expected that the bid prices would have
23 been lower because so many contractors need the work and their pencils would be sharp when
24 working up the numbers.

25
26 Major said that if this had been a simple water or sewer line job the bids would have come in
27 lower, but this job, because of the electrical and control elements, is more complex.

28
29 Rieseck said that based on his recent experience with PUD he can understand that it may be
30 difficult for the engineers and the contractors to get accurate and consistent costing information.

31
32 For the audience Layne Morrill said that when he first started talking to PUD about this project
33 he was told that three-phase service would be more expensive than normal so now that they have
34 said they would not be supplying three-phase the cost should be less – not more.

35
36 **B. Commissions**

37
38 Marie Green said that the Library Commission has been investigating the possibility of Yachats
39 joining the District. Green shared Yvonne Wulff's report to the Library Commission on her
40 meeting with the Library District, in which she described the steps necessary to join and what it
41 would cost. Becoming a part of the Library District would require a vote to approve the property
42 tax levy for the service.

43
44 Green said that there are currently 16 families that pay \$50 a year to use the Library District
45 services.

46
47 Green explained that the Yachats Library orders books upon request – all anyone has to do is
48 ask.

1
2 Green explained that in order for the Library to be part of the District they would have to redo all
3 of the bar codes on the books. This would require training and hundreds of volunteer hours to
4 complete. The Library would also need to replace the software used and there would be an
5 annual fee. That fee is expected to go up to \$4,500 and a lot of books can be purchased for that
6 same amount of money. Green said that although they would not be required to have paid staff, it
7 might be necessary to manage the inter-library loan program.

8
9 Batchelder explained that the current Library District tax levy is around \$0.34 per thousand.¹
10 With a general City tax levy of \$0.1717 that would be double what the citizens pay to the City.
11 And, the annual fee would have to be paid in addition to that tax.

12
13 Dunn explained that the Friends of the Library and the Library Commission have also discussed
14 the possibility that volunteers would feel the added work was too much and might leave.

15
16 Rieseck said that as he understands it Yachats is the only city in the county that does not belong
17 to the system and if Siletz and Toledo can support it, he does not understand why Yachats
18 cannot.

19
20 Discussion followed about the potential costs for the citizens and the City.

21
22 The City Council thanked the volunteers for the services they provide, and Yvonne Wulff for her
23 report.

24
25 Walt Weyand said that the Public Works and Streets Commission would like to thank the Public
26 Works Director, City Recorder and other staff who watched over the wastewater treatment plant
27 project to ensure that Yachats did not experience the type of cost overruns currently facing
28 another community in the county.

29
30 Weyand also said that the Public Works and Streets Commission wants to stress the need to
31 press forward to secure the water rights on the Yachats River.

32 33 **C. City Council**

34
35 Dunn pointed out that the City has received the quarterly report from the Visitor Center.

36
37 Scott gave a status report on the aerial work for the GoYachats website. Additional shots may be
38 made of the downtown area so they can be available for planning purposes.

39
40 Brean said that last month he attended the League of Oregon Cities annual conference. Yachats
41 received two gold awards from City County Insurance Services. One for the employees' safety
42 record and the other for their participation in the healthy benefits program.

43
44 Brean said that he also attended the Oregon Association of Municipal Records conference. He
45 had been invited to attend to witness Yachats City Recorder, Nancy Batchelder receive the
46 President's Award of Distinction. Brean said that he had been very impressed with the groups

¹ The current Library District tax rate is 0.3365. At the total assessed value of the City (not including the URD) of \$224,620,340, the citizens would be paying \$75,584.74 this year in taxes if part of the district.

fundraising efforts. The money is raised to provide scholarships so that members could continue their education and enhance their skills in order to serve their cities better.

D. Public Works Director – John McClintock reported:

- The bears are real close to town, in fact he encountered one early this morning at the water plant.
- The work on the ditch near the Yachats Community Demonstration and Community Garden has been completed, as requested. In thanks, they gave the crew cookies.
- This year's street paving projects have been completed.
- The Finance Committee continues to work on the funding plan for the streets and storm drain system.
- Work on drainage improvements between the Library and the neighbors is nearly complete.
- The report on the Yachats River monitoring should be ready in December. This monitoring is a required step to secure the water rights.
- There is a law firm in Portland that specializes in water rights. For \$300, they will compile all of the documentation the City will need when going to the State for that water right.
- Next month the Public Works crew will start flushing the water distribution system.
- The water plant is trying a new polymer. It should work better and cost less.
- Rick McClung demonstrated the emergency water treatment system at the emergency preparedness faire last month.
- The draft DEQ permit has been reviewed and returned to DEQ; so the City should be receiving the final permit soon.
- Wastewater Treatment Plant Operator, Dave Buckwald will be receiving the Operator of the Year award at the conference next week.
- The ORWARN conference this year will focus on how the inland communities can assist the coastal cities in the event of a Tsunami.

Betty Johnson, CERT Team Leader explained that she is trying to locate a place to move the CERT storage container to higher ground and away from the Library.

E. City Attorney – None.

F. Written Reports - Attached

City Recorder, City Planner, Marketing Director, and Code Enforcement Officer

V. Unfinished Business

A. Ordinance No. 291 An Ordinance Amending, In Part Section 4.08.030 Of The Yachats Municipal Code – Transient Rental Standards And Section 4.08.040 License And Annual Fee

Brean explained this amendment would provide for additional standards for rentals accessed via an easement, or other private conveyance; and adds a provision for inspections and an inspection fee.

1 Code Enforcement Officer, Don Niskanen said that currently the City is involved in a Municipal
2 Court case that involves a transient rental that is on a private drive, which has negatively affected
3 the neighborhood.

4
5 It was noted that the inspection fee would be set by Resolution in the future once the cost
6 analysis has been done.

7
8 Scott said that the City Council has taken care to write legislation that is the least restrictive
9 possible to address the situation and protect the quiet and peace of neighbors in a residential
10 zone while maintaining the property rights of those that wish to have a transient rental license.

11
12 Motion to adopt Ordinance No. 291 An Ordinance Amending, In Part Section 4.08.030 Of The
13 Yachats Municipal Code – Transient Rental Standards And Section 4.08.040 License And
14 Annual Fee, at this meeting, Aye – 5, No – 0.

15
16 Staff was directed to do the cost analysis needed to determine the inspection fee.

17
18 The meeting was recessed at 3:40 p.m. and the Mayor called an executive session under ORS
19 192.660 (2) (f) To consider records that are exempt by law from public inspection and (h) To
20 consult with counsel concerning the legal rights and duties of a public body with regard to
21 current litigation or litigation likely to be filed.

22
23 The regular meeting was reconvened at 4:15 p.m.

24 25 **VII. New Business**

26 **A. Recommendation from the Public Works & Streets Commission: Membership**

27
28 Walt Weyand introduced Karl Evans.

29
30 Evans said that he started coming to Yachats in 1962 and purchased land in the 1970's. Evans
31 said that he would just like to help. He was a loan agent for the United Methodist Church and it
32 was his job to work with local congregations as they built new churches so he is familiar with
33 water, sewer and streets.

34
35 Evans said that his particular interest is the street in his neighborhood. Aqua Vista Loop is too
36 narrow and many oversized vehicles use it to turn around or they are trying to get to the beach.
37 However, he has no problem with looking at Citywide issues and would be able to set aside his
38 own preferences in making decisions.

39
40 Motion to appoint Evans to the Public Works and Streets Commission, Aye – 5, No – 0.

41 42 **B. City Attorney Selection**

43
44 Dunn said that she thinks the City would do well with either firms, but she was impressed with
45 Speer Hoyt. She likes that they only represent local governments and that they had researched
46 the City before they attended the meeting.

1 Nixon said that he also thinks it would be a good thing to have a firm from Lane County because
2 that would provide a link in that direction. There would also be less chance of possible conflict
3 of interest issues. He was impressed with the expertise they would bring, including a background
4 with the League of Oregon Cities (LOC).

5
6 Scott said that he agrees, but would like to authorize the Mayor to negotiate for a more favorable
7 hourly rate.

8
9 Rieseck said that he agrees. While it may be of benefit to have an attorney that has served as a
10 City Councilor in the past the Eugene firm was impressive.

11
12 Brean said that he agreed – he was impressed with the amount of homework that firm had done
13 and the LOC connection.

14
15 Motion to contract with Speer Hoyt to represent the City of Yachats as legal council and to
16 authorize the Mayor to negotiate for a better hourly rate, Aye – 5, No – 0.

17
18 **C. Appeal of Planning Commission Decision: Aqua Vista Square Parking**
19 **Requirements**

20
21 Layne Morrill said that Aqua Vista Square, LLC believes they did everything they could do
22 during the due diligence period before they purchased the property to make sure they would be
23 able to do what they wanted with the property. Before the purchase was finalized, he talked with
24 City Planner, Larry Lewis to make sure that the parking, as planned would be allowed. Lewis
25 actually pointed out other areas in town where parking is partially in the right-of-way, off the
26 paved street has been allowed and others where it had been constructed by the City. On East
27 Second, the parking is not only in the right-of-way it is partially in the street.

28
29 Morrill said that the Code requires the parking to be off-street, but it does not require it to be off-
30 right-or-way. At the Planning Commission, what happened was that everyone is familiar with
31 their own experience of needing two parking spaces when building their homes and they related
32 that to the project when parking in a mixed-use development in a commercial zone is different.

33
34 Dunn asked what if tomorrow sidewalks and curbs were built on Aqua Vista.

35
36 Morrill said that the project will build curbs, sidewalks and gutters, and will be on the property.
37 Morrill said that it is unlikely that the City will ever actually build sidewalks and gutters along
38 that street anyway.

39
40 Dunn said that the using the parking created by the City on East Second Street may not be a
41 good example because it was done because there was not enough parking for the businesses that
42 were already there – it fixed a deficiency.

43
44 Morrill said that a better example would be across the street on Fourth Street where the building
45 permit was approved with the parking partially in the right-of-way.

46
47 Brean pointed out that in the plans there was one residential parking spot that spills over into the
48 right-of-way.

1
2 Morrill said that was discussed at the Planning Commission meeting and it is an easy fix.

3
4 Brean said that he thinks that there is an opportunity in the future for any city street that is within
5 a right-of-way to be expanded so they must have intended for it to be available to be used as a
6 street. Brean read the definitions in the Code for “alleyway” and “front lot line” which would in
7 turn define “street” because each refers to abutting the street; and, he believes that the original
8 intent was to make the entire right-of-way available for use as a street.

9
10 Morrill said that the City Planner, who is a professional with many years of experience,
11 approved the parking for the Cheese and Crackers building, which extends into the right-of-way.
12 Before purchasing the property Aqua Vista Square, LLC. verified with Lewis that he would
13 approve parking in the same manner for their project. Lewis said that he would, and indicated
14 that it was a viable solution for any city that does not have enough parking.

15
16 Brean said that he thinks the City needs to find the subdivision records to learn what was deeded
17 in the first place.

18
19 Rieseck said that he thinks the City Council needs to send this back to the Planning Commission
20 to revisit the decision. There needs to be more clarification and definition about what happens
21 when a commercial and residential abut when there are different code standards for each.

22
23 Rieseck said that he has been working with Lewis to develop an urban PUD code that would
24 allow additional options. Developers are being forced to include commercial units in order to
25 increase density when it may not be in the best interest of the City.

26
27 Scott said that he would like to ask Morrill what bearing an urban PUD options may have on his
28 project.

29
30 Brean said that he recognizes that are cases where the City Planner has made decisions based on
31 what he thinks would be good for the City based on his interpretation of the Code, but in a quasi-
32 judicial setting, where the City Council is being asked to make a judgment based on the letter of
33 the law it is a good thing to have a discussion about the options.

34
35 Rieseck said that the Planning Commission made their decision without knowing what other
36 options may be available should an urban PUD options were available and he thinks the issue
37 should be sent back to the Planning Commission now that they know they may have that
38 additional tool.

39
40 Morrill said that the project did not just throw commercial units into the project to get more
41 density. Part of the idea behind this project would be to allow a live-work situation because they
42 would be able to live above their business. So, he would not be able to say that they would
43 abandon the plan just because there is talk about another option down the road.

44
45 Brean said that he likes the project, but he is not willing to agree to something that would set
46 precedence inappropriately.

1 Rieseck said that he was using the elimination of the commercial units as an example of
2 something that could be addressed in the urban PUD concept, but it would not necessarily be the
3 only option.

4
5 Motion that Whereas the City Council believes the intent of the ordinance was to protect the
6 right of way for street uses and not parking, however, the zoning regulations need to be looked at
7 to determine a solution for similar properties; and therefore the Planning Commission decision is
8 upheld and staff is instructed to draft an order for City Council adoption at the next meeting, Aye
9 – 4, No – 1 (Rieseck).

10
11 Motion to direct staff to look at ways to address the ambiguities around this issue, including an
12 urban PUD code amendment, Aye – 5, No – 0.

13
14 **D. Recommendation from the Parks and Commons Commission: State of the City**
15 **Meeting**

16
17 At their September meeting, the Parks and Commons Commission talked about the possibility of
18 having an informational meeting at which all of the various commissions and the City Council
19 would report on the State of the City.

20
21 It was suggested that January would be a good time to do this.

22
23 Dunn suggested that a volunteer appreciation event be added to this.

24
25 Motion to accept the recommendation from the Parks and Commons Commission and include a
26 volunteer appreciation event, Aye – 5, No – 0.

27
28 **E. Interpretation of Municipal Code Chapter 3.12 – Prepared Food and Beverage Tax**
29 **and how it applies to C & K Market, Inc.**

30
31 Brean explained that the market has challenged the requirement that they pay the food and
32 beverage tax because they do not believe that they are covered by the Code. The City Attorney
33 has been discussing the issue with their attorney and it appears clarification is needed because of
34 the uniqueness of a grocery store that sells many other types of food that could be considered
35 taxable.

36
37 There was consensus to continue this to the next meeting at which the City Attorney will bring
38 back a code amendment for City Council consideration to resolve this, Aye – 5, No – 0.

39
40 **F. Discussion: Adult Programming Survey – What is the Next Step**

41
42 Scott suggested that an advisory vote be placed on the ballot in May before trying to decide how
43 to pay for any capital improvements for the building,

44
45 There was consensus to ask the Parks and Commons Commission to look at this issue and make
46 recommendations to Council.

1 Niskanen said that a room use study is needed. The group will meet tomorrow to talk about
2 programming and they will be making a report to the Parks and Commons Commission at their
3 meeting next month. Niskanen said that he is going to be looking for people to take this issue
4 on.
5

6 **G. Management Evaluations and Compensation**
7

8 Brean said that he will be meeting with the City Recorder and the Public Works Director to
9 discuss the evaluations. However, the City Council agrees that they are both doing a stellar job
10

11 Motion to increase the salaries for the City Recorder and the Public Works Director by 5%
12 effective July 1, 2010, Aye – 5, No – 0.
13

14 **VIII. Other Business**

15 **A. From the Council**
16

17 Scott said that last month he asked the Planner for an interpretation of some Planning
18 Commission minutes from 1984 regarding public access to the river trail in Quiet Water. Council
19 does not yet have this and he would like Council to ask for that by next week because there will
20 be another meeting of the homeowners. A vote of the Homeowners Association cannot be done
21 immediately, but he would like to move the riparian restoration project ahead. So he would like
22 to offer them an MOU regarding that public access to the trail by the river. If, after the project is
23 finished and the homeowners vote to reject the public access, then they would repay the City for
24 expenses for the riparian restoration project.
25

26 It was noted that much volunteer work would be involved on the riparian restoration project so a
27 value would need to be added for that.
28

29 It was agreed that at the September meeting the Mayor was authorized to take whatever steps he
30 thought was in the best interest of the City as he worked with the QWHOA, so this type of MOU
31 would be authorized.
32

33 **B. From the Staff**
34

35 Batchelder explained that the Library Commission has requested the Mayor co-sign, with the
36 Library Commission Chair, a letter of appreciation for all the volunteers that have worked at the
37 Library this past year. Brean said he would be happy to sign such a letter.
38

39 There being no further business before the City Council, the meeting was adjourned at 5:50 PM.
40
41
42

43 _____
44 Ronald L. Brean, Mayor

45 Attest:
46
47
48 _____

1 Nancy Batchelder, City Recorder